



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

**COMMISSION ADJUDICATORY
DOCKET NO. 646**

IN THE MATTER OF RICHARD SEVENEY

DISPOSITION AGREEMENT

This Disposition Agreement is entered into between the State Ethics Commission and Richard Seveney pursuant to Section 5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented-to final order enforceable in Superior Court, pursuant to G.L. c. 268B, §4(j).

On August 8, 2001, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Seveney. The Commission has concluded its inquiry and, on October 16, 2001, found reasonable cause to believe that Seveney violated G.L. c. 268A, §19.

The Commission and Seveney now agree to the following findings of fact and conclusions of law:

Findings of Fact

Hiring Brother-in-Law as Audiovisual/Computer Technician

1. At all relevant times, Seveney was employed as the high school principal for the Town of Ware. As such, Seveney was a municipal employee as that term is defined in G.L. c. 268A, §1(g).
2. In spring 1998, the Ware School District sought to hire a full-time audio-visual/computer technician at a starting salary of \$33,000 per year. The superintendent of schools was the ultimate hiring authority for the position. A three-person screening committee, which included Seveney, was charged with reviewing applications, interviewing candidates, and recommending a candidate for hire to the superintendent.
3. One of the applicants for the position was Seveney's brother-in-law, Francis Mitus (Seveney's wife's brother).
4. Seveney did not attend Mitus' interview but he attended and participated in the interviews of the two other candidates. Seveney participated in the screening committee discussion of the other two candidates, but did not make any comments about Mitus. The other two committee members recommended Mitus for the position. Without any further action by Seveney, that became the Committee's recommendation.

5. In a May 27, 1998 letter to the superintendent, on behalf of the selection committee, Seveney recommended that Mitus be appointed to the audio-visual/computer technician position. In his letter Seveney wrote that "due to a conflict of interest" he abstained from the Mitus interview and the committee's recommending Mitus. In the concluding paragraph, Seveney wrote:

Mr. Mitus would bring to this position over twenty-five years of technical experience in both computers and audiovisual equipment. His strong background and experience in training both students and faculty in the Springfield School System is another asset he would bring to the Ware School System.

6. The superintendent was aware that Mitus was Seveney's brother-in-law.

7. The superintendent appointed Mitus to the position.

Hiring Daughter as Suspension Monitor

8. In or about January 2000, the school district sought to hire an in-school suspension monitor for the remainder of the 1999-2000 school year. The position paid \$25,000 per year, with the salary to be pro-rated for the remainder of the school year.

9. Three individuals, including Seveney, served on the screening committee. The committee received 17 applications and interviewed six applicants, including Seveney's daughter, Amy Wnek.

10. Seveney did not attend Wnek's interview, but he attended and participated in the interviews of the other candidates. Seveney participated in the screening committee discussion of the other candidates, but did not make any comments about his daughter. The committee, without further participation by Seveney, decided to recommend Wnek.

11. On February 7, 2000, Seveney sent a letter to the superintendent recommending that Wnek be appointed to the suspension monitor position stating:

The [assistant principal] and [guidance counselor] interviewed the six applicants with myself taking part in five of the interviews. Their candidate of choice was Amy Wnek. I would concur with this decision and recommend her for the position of in-school suspension monitor.

12. The superintendent was aware that Wnek was Seveney's daughter.

13. The superintendent appointed Wnek to the position.

Conclusions of Law

14. Section 19 of G.L. c. 268A, except as permitted by paragraph (b) of that section, prohibits a municipal employee from participating as such an employee in a particular matter in which to his knowledge an immediate family member^{1/} has a financial interest. None of the exceptions contained in §19(b) apply in this case.^{2/}

15. The determinations as to whom to hire as the audio-visual/computer technician and the suspension monitor were particular matters.^{3/}

16. Seveney participated^{4/} as the high school principal in those hiring determinations by reviewing applications and conducting interviews and evaluations regarding the candidates other than his brother-in-law and daughter, and by writing memos to the superintendent recommending his brother-in-law be hired as the audio-visual/computer technician and his daughter be hired as the suspension monitor.^{5/} (If Seveney had merely communicated the committees' decisions, without elaboration, such ministerial acts may not have been "participation." Here, however, in each letter he added his own endorsement above and beyond conveying the simple fact of the committees' decisions.)

17. Mitus, as an applicant for the audio-visual/computer technician position, and Wnek, as an applicant for the suspension monitor position, each had a financial interest in their respective appointments. Seveney knew of his brother-in-law's and his daughter's financial interests at the time he participated in the hiring processes.

18. Accordingly, by participating in the hiring processes for the audio-visual/computer technician and the suspension monitor, as set forth above, Seveney participated in his official capacity in particular matters in which he knew immediate family members had a financial interest, thereby violating G.L. c. 268A, §19 on both occasions.

19. Seveney cooperated with the Commission's investigation.

Resolution

In view of the foregoing violations of G.L. c. 268A by Seveney, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Seveney:

(1) that Seveney pay to the Commission the sum of \$1,000 as a civil penalty for violating G.L. c. 268A as stated above;^{6/} and

(2) that Seveney waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: October 24, 2001

^{1/} "Immediate family" means the employee and his spouse, and their parents, children, brothers and sisters.

^{2/}Section 19(b)(1) provides an exemption when :

the municipal employee first advises the official responsible for appointment to his position of the nature and circumstances of the particular matter and makes full disclosure of such financial interest, and receives in advance a written determination made by that official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from the employee.

While the superintendent was aware of the family relationship between Seveny and the applicants, no written disclosures or determinations were made nor did the superintendent know of the extent of Seveny's participation in the hiring processes.

3/"Particular matter," any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, finding, but excluding enactment of general legislation by the general court and petitions of cities, towns, counties and districts for special laws related to their governmental organizations, powers, duties, finances and property. G.L. c. 268A, '1(k).

4/"Participate," participate in agency action or in a particular matter personally and substantially as a state, county or municipal employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise. G.L. c. 268A, '1(j).

5/Abstaining from a family member's interview is not enough where the other applicants are competitors for the same position.

6/ The Commission has previously resolved violations through public disposition agreements where public officials were involved in hirings affecting immediate family members even where the public officials have limited their involvement to reviewing applications and conducting interviews of only the candidates other than their family member. See Larkin, 1990 SEC 490 (MBTA manager involved in interviewing process violated §6 even though he did not interview his daughter).